

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
(Asheville)

TERI LYNN HINKLE,)	
)	Case No.: 1:18-cv-00007-MR-DLH
Plaintiff,)	
vs.)	
)	
EXPERIAN INFORMATION)	
SOLUTIONS INC., et al.)	
)	
Defendants.)	

**DEFENDANT EQUIFAX INC. AND EQUIFAX INFORMATION SERVICES LLC'S
ANSWER AND DEFENSES TO PLAINTIFF'S FIRST AMENDED COMPLAINT**

NOW COMES Defendants Equifax Information Services LLC ("Equifax") and Equifax Inc., collectively referred to herein as the "Equifax Entities", by Counsel, and for their response to Plaintiff's Complaint state as follows:

PRELIMINARY STATEMENT

In answering the Complaint, the Equifax Entities state that they are responding to allegations on behalf of themselves only, even where the allegations pertain to alleged conduct by all Defendants. The Equifax Entities deny any and all allegations contained in the headings and/or unnumbered paragraphs in the Complaint.

ANSWER

In response to the specific allegations in the enumerated paragraphs in the Complaint, the Equifax Entities responds as follows:

1. To the extent Plaintiff has properly alleged her claims, the Equifax Entities admit this Court may exercise its jurisdiction.

2. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 2.

3. The Equifax Entities admit that Plaintiff is a natural person. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 3.

4. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 4.

5. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 5.

6. Equifax Inc. denies it is a consumer reporting agency. Equifax Inc. admits the remaining allegations in Paragraph 6.

7. The Equifax Entities state that the provisions of the FCRA speak for themselves and to the extent Plaintiff misquotes, misstates, and/or mischaracterizes the provisions of the FCRA, the allegations in Paragraph 7 are denied. The Equifax Entities admit that Equifax Inc. is the parent corporation of Equifax Information Services LLC. Equifax Inc. denies that it is a consumer reporting agency as defined by the FCRA.

8. The Equifax Entities deny the allegations in Paragraph 8.

9. The Equifax Entities deny the allegations in Paragraph 9.

10. The Equifax Entities deny the allegations in Paragraph 10.

11. The Equifax Entities deny the allegations in Paragraph 11.

12. The Equifax Entities state that the provisions of the FCRA speak for themselves and to the extent Plaintiff misstates, misrepresents, and/or mischaracterizes the provisions of the FCRA, the allegations in Paragraph 12 are denied.

13. The Equifax Entities deny the allegations in Paragraph 13.
14. The Equifax Entities deny the allegations in Paragraph 14.
15. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15.
16. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 16.
17. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 17.
18. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 18.
19. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 19.
20. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 20.
21. Equifax admits that it received Plaintiff's request for a copy of her consumer file disclosure. Equifax Inc. is without knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 21.
22. Equifax admits that Plaintiff's request for a copy of her consumer credit file disclosure speaks for itself and to the extent Plaintiff misstates, misrepresents, and/or mischaracterizes the contents of her request for her consumer credit file disclosure, the allegations in Paragraph 22 are denied. Equifax Inc. is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 22.

23. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 23.

24. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 24.

25. The Equifax Entities deny the allegations in Paragraph 25 as they pertain to them. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 25.

26. Equifax admits that it received Plaintiff's request for a copy of her consumer file disclosure. Equifax Inc. is without knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 26.

27. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 27.

28. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 28.

29. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 29.

30. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 30.

31. Equifax admits that it received Plaintiff's request for a copy of her consumer file disclosure. Equifax Inc. is without knowledge or information sufficient to form a belief as to the remaining allegations in Paragraph 31.

32. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 32.

33. Equifax admits that it provided Plaintiff with consumer credit file disclosure in response to her request. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 33.

34. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 34.

35. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 35.

36. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 36.

37. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 37.

38. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 38.

39. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 39.

40. Equifax denies the allegations in Paragraph 40 that pertain to it. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 40.

41. Equifax denies the allegations in Paragraph 41 that pertain to it. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 41.

42. Equifax denies the allegations in Paragraph 42 that pertain to it. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 42.

43. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 43.

44. Equifax denies the allegations in Paragraph 44 that pertain to it. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 44.

45. Equifax states that the provisions of the FCRA cited in Paragraph 45 and the consumer file disclosure request it received from Plaintiff speak for themselves. Equifax denies the allegations in Paragraph 45 that pertain to it. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 45.

46. Equifax states that the consumer file disclosure request it received from Plaintiff speaks for itself. Equifax denies the allegations in Paragraph 46 that pertain to it. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 46.

47. Equifax states that the consumer file disclosure request it received from Plaintiff speaks for itself. Equifax denies the allegations in Paragraph 47 that pertain to it. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 47.

48. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 48.

49. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 49.

50. Equifax denies the allegations in Paragraph 50 that pertain to it. Equifax Inc. is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 50.

51. Equifax admits that it received a consumer file disclosure request from Plaintiff. Equifax denies that it violated the FCRA in handling any consumer file disclosure request it received from Plaintiff. The Equifax Entities state that the provisions of the FCRA cited in Paragraph 51 speak for themselves. The Equifax Entities deny the remaining allegations in Paragraph 51.

52. Equifax denies that it violated the FCRA in handling any consumer file disclosure request it received from Plaintiff. The Equifax Entities deny the remaining allegations in Paragraph 52.

53. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 53.

54. The Equifax Entities reassert and re-allege their responses and defenses as set forth above in Paragraphs 1 through 53.

55. The Equifax Entities admit the allegations in Paragraph 55.

56. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 56.

57. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 57.

58. The Equifax Entities reassert and re-allege their responses and defenses as set forth above in Paragraphs 1 through 57.

59. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 59.

60. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 60.

61. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 61.

62. The Equifax Entities reassert and re-allege their responses and defenses as set forth above in Paragraphs 1 through 61.

63. The Equifax Entities are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 63.

64. Equifax Inc. denies the allegations in Paragraph 64. Equifax admits that it is a consumer reporting agency as defined by the FCRA. Equifax denies the remaining allegations in Paragraph 64.

65. The Equifax Entities deny the allegations in Paragraph 65 and deny Plaintiff is entitled to any relief claimed in the subsequent WHEREFORE Paragraph.

66. The Equifax Entities admit Plaintiff has demanded a trial by jury.

GENERAL DENIAL

Any allegation in Plaintiff's Complaint not heretofore specifically responded to by the Equifax Entities is hereby denied.

DEFENSES

Without assuming the burden of proof where it otherwise rests with Plaintiff, the Equifax

Entities plead the following defenses to the Complaint:

FIRST DEFENSE

Plaintiff's damages, if any, were not caused by the Equifax Entities, but by another person or entity for whom or for which the Equifax Entities are not responsible.

SECOND DEFENSE

The Complaint is barred by the fault and negligence of other persons or entities and plaintiff's damages, if any, should be apportioned according to the principles of comparative fault.

THIRD DEFENSE

Equifax Inc. is not a proper party to this action.

FOURTH DEFENSE

Equifax Inc. is not a consumer reporting agency as defined by the FCRA.

FIFTH DEFENSE

At all relevant times herein, the Plaintiff's alleged damages, which the Equifax Entities deny exist, were aggravated by the failure of the Plaintiff to use reasonable diligence to mitigate the same. Therefore, Plaintiff's recovery, if any, should be barred or decreased by reason of her failure to mitigate alleged losses.

SIXTH DEFENSE

Equifax has complied with the Fair Credit Reporting Act in its handling of Plaintiff's credit file and is entitled to each and every defense stated in the Act and any and all limitations of liability.

SEVENTH DEFENSE

Plaintiff cannot meet the requirements of 15 U.S.C. § 1681n in order to recover punitive

or statutory damages.

The Equifax Entities reserve the right to assert additional defenses that they learn through the course of discovery.

WHEREFORE, having fully answered or otherwise responded to the allegations contained in Plaintiff's Complaint, the Equifax Entities pray that:

(1) Plaintiff's Complaint be dismissed in its entirety and with prejudice, with all costs taxed against Plaintiff;

(2) That the Equifax Entities be dismissed as a parties to this action;

(3) That this lawsuit be deemed frivolous and the Equifax Entities recover from plaintiff their expenses of litigation, including but not limited to attorneys' fees pursuant to 15 U.S.C. § 1681n(c) and 15 U.S.C. § 1681o(b); and

(4) That the Equifax Entities recover such other and additional relief, as the Court deems just and appropriate.

Respectfully submitted this 8th day of November, 2018.

KING & SPALDING LLP

/s/ Bradley J. Lingo

Bradley J. Lingo

North Carolina Bar No. 44018

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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of November, 2018, a copy of the foregoing pleading was filed electronically with the clerk of court via the Court's ECF system which will send notifications to ECF participants, and Plaintiff was served via U.S. Mail, postage prepaid:

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